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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,929

07/11/2005

Cristina Gomila

PU030019

6062

24498 7590 06/08/2010  
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EXAMINER

PE, GEEPY

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

06/08/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,929	<b>Applicant(s)</b> GOMILA, CRISTINA	
	<b>Examiner</b> Geepy Pe	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/20/10, 5/10/10</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4/6/10, with respect to claims 1-23, have been fully considered but they are not persuasive.
2. Claim 1 remains rejected under 35 U.S.C. 102(b) as being anticipated by Chien et al. (U.S. Pat. 5,621,467; hereinafter Chien; already of record), as was set forth in the Office Action of 3/9/10.
3. Claims 2-23 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Chien, in view of Richardson (Richardson, "H.264/MPEG-4 Part 10: Intra Prediction"), as was set forth in the Office Action of 3/9/10.
4. The Applicant(s) present(s) four (4) substantive argument(s) contending the Examiner's rejection(s) of claim(s) 1 under 35 U.S.C. 102(b) as being anticipated by Chien and claim(s) 2-23 under 35 U.S.C. 103(a) as being unpatentable over Chien, in view of Richardson, as was set forth in the Office Action of 3/9/10. However, after carefully reviewing the argument(s) presented and further scrutiny of the applied reference(s), the Examiner must respectfully disagree and maintain the grounds of rejections for the reasons that follow.

The Applicant first argues that "...the error concealment apparatus...does not derive an 'intra-prediction' mode..." (Remarks of 4/6/10: pg. 1, lines 29-30) and that Chien "...represents an entirely different operation than deriving at least one an intra-prediction mode..." (Remarks of 4/6/10: pg. 2, lines 12-13). The Examiner respectfully disagrees. As stated in col. 2, lines 2-4 in Chien, there is spatial and temporal interpolation or prediction. That is, spatial prediction would address the limitation of intra-prediction.

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The Applicant also argues that Chien provides "...no disclosure of suggestion of establishing an interpolation filter for estimating concealment...and does not depend on the intra-prediction mode" (Remarks of 4/6/10: pg. 2, lines 19-23). However, as stated above, spatial and temporal interpolation or prediction functions are provided within Chien to account for the interpolation filter.

The Applicant(s) then inquire of the publication date of the Richardson reference used (Remarks of 4/6/10: pg. 3, lines 3-9). A copy has been provided showing the publication being 7/10/02 to substantiate the date. Furthermore, in a co-pending application by the Applicant (10/541,778), Richardson is disclosed in the IDS and cited with the date of July 2002.

Lastly, the Applicant argues that the "...the Richardson paper says nothing whatsoever regarding error concealment..." (Remarks of 4/6/10: pg. 3, lines 26-29). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Furthermore, Section 103 requires us to presume full knowledge by the inventor of the prior art in the field of his endeavor, *In re Wilson*, 151 USPQ 48 (CCPA 1966). Because Richardson was disclosed in a co-pending application, which deals with error concealment, Richardson would be applicable art.

Accordingly, the Examiner respectfully maintains the rejections and applicability of the art used.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geepy Pe whose telephone number is (571)-270-3703. The examiner can normally be reached on Monday - Friday, 7:00AM - 3:30PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. P./

/Geepy Pe/

Examiner, Art Unit 2621

/Andy S. Rao/

Primary Examiner, Art Unit 2621

June 7, 2010